

State of New Hampshire
Office of Professional Licensure and Certification
Electricians' Board
Concord, New Hampshire 03301

In the Matter of:
Spark Electrician Services LLC
License #0542C

Docket No.: 23-ELEC-0017

Justin Smith
License #13756M

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public, the New Hampshire Electricians' Board (hereinafter "Board") and Justin Smith, a master electrician licensed by the Board, and Spark Electrician Services LLC ("Spark Electric"), and electrical corporation licensed by the Board, (hereinafter together as "Respondents") do hereby stipulate and agree to resolve certain allegations of misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 319-C:6-a, 319-C:4, 319-C:5, 319-C:12, 319-C:12-a, RSA 310:9, RSA 310:10 and the Electrician's Board Administrative Rules ("Elec") 105, 203, 207, and 405, the Board has jurisdiction to investigate and adjudicate allegations of misconduct committed by electricians. Pursuant to RSA 310:10, RSA 319-C:12, and Elec 207.07 the Board may, dispose of such allegations by settlement at any time prior to a decision on the merits.
2. The Board first granted Justin Smith a license to practice electrical installations in the State of New Hampshire as a master electrician on 08/19/2005 through examination. Justin Smith currently holds master electrician license number 13756M. Justin Smith is the owner/master of record for Spark Electrician Services LLC, License #0542C.


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3. On or about 01/26/2023, the Board received a complaint alleging Respondents committed professional misconduct during an electrical installation of a portable home generator in Nashua, NH. In response, Inspector Shane Johnson conducted an investigation. After reviewing the report of investigation, the Board voted to commence an adjudicative disciplinary hearing.
4. Respondent stipulates as follows:
 - A. At all times relevant, Respondents held active licenses #13756M and #0542C.
 - B. Respondents have no history of prior misconduct.
 - C. At all times relevant, Mr. Evan G. Schwieger held active electrician apprentice license #16527.
 - D. At all times relevant, Mr. Schwieger was employed by Respondents.
 - E. On 01/26/2023, Respondents scheduled Mr. Schwieger to provide a same-day quote and installation of a main breaker panel with a mechanical interlock for a manual generator hook-up at the complainant's residence in Nashua, NH.
 - F. Mr. Schwieger, an apprentice, performed the electrical installation alone and without supervision.
 - G. Mr. Schwieger performed the electrical installation prior to Respondents' receiving an approved permit.
 - H. During the installation, Mr. Schwieger modified a mechanical interlock with an angle grinder against manufacturer instructions and failed to install required bushings.
 - I. Subsequently, Respondents offered to correct the installation through either the Respondents or through a third party.
 - J. Subsequently, Respondents conducted training with all employees concerning how physical modifications to product voids the UL listing and is not permitted to be installed.
 - K. Respondents failed to directly supervise at all times the installation of an electrical system performed by an apprentice in violation of Elec 404.05(a).

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- L. Respondents performed an unfit electrical installation inconsistent with the 2017 Edition of the National Electrical Code, NFPA 70, sections 110.3(b) and 352.46 in violation of Elec 404.04.
5. The Board finds that Respondents committed the acts as described above and concludes that, by engaging in such conduct, Respondents engaged in misconduct when they violated, RSA 319-C:12(II)(c) (*see* Elec 404.04 and Elec 405.01(2) and (3)) and RSA 319-C:12(g) (*see* RSA 404.05(a)).
6. Respondents acknowledges that the above-described conduct constitutes grounds for the Board to take disciplinary action against the Respondents' licenses to practice as an electrician in the State of New Hampshire, as stated in Elec 405.02.
7. Respondents represent that they have taken steps to avoid any repetition of such conduct in the future.
8. There is no current record of a similar violation on file at the Board's office as of the date of this *Settlement Agreement*.
9. The Respondents are willing to accept that this is a first offense as described in Elec 405.03(c)(1). This shall be considered as a disciplinary action until seven years after the execution of this *Settlement Agreement* as described in Elec 405.03(i).
10. For the purposes of determining disciplinary action, multiple offenses that occur on one job site or in one incident shall be considered separate offenses as described in Elec 405.03 (g).
11. The Respondents consent to the Board imposing the following discipline, pursuant to RSA 310:12, RSA319- C:12, Elec 405.01, Elec 405.02, Elec 405.03(c)(1), and Elec 405.03(j):
- A. The Respondents are **REPRIMANDED**.
- B. The Respondents licenses are **SUSPENDED** for a period of six (6) months. The suspension will be deferred for a one (1) year **PROBATION** period provided the Respondents do not

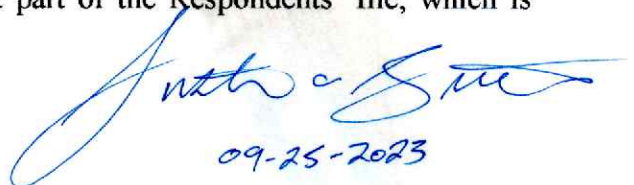
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violate the provisions of RSA 319-C or the Board's administrative rules, and the Respondents advises the Board on a monthly basis in a written report by completing the Probation Reporting Form of the location of any current or projected jobs in NH as required under Elec 405.02 (b). The reports shall include jobs (completed or projected) from the first day of the month to the first day of the following month. The report form, supplied by the Board, shall be received in the Board's office by the first day of the month, with the first report due on the first day of the month following the execution of this *Settlement Agreement* and the last report due twelve (12) months after the execution of this Settlement Agreement. A report shall be filed each month even if no work is performed in NH.

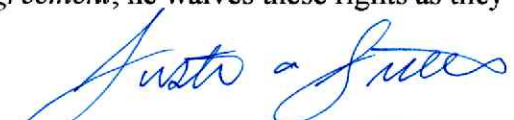
C. The Board may consider the Respondents' compliance or non-compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondents' licenses.

12. Respondents' breach of any terms or conditions of this *Settlement Agreement* shall constitute misconduct pursuant to RSA 319-C:12, and a separate and sufficient basis for further disciplinary action by the Board. The deferred suspensions may then be brought forward in addition to any further disciplinary action. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against the Respondents in the future. Additionally, the Board may consider the fact that discipline was imposed by **this *Settlement Agreement*** as a factor in determining appropriate discipline should any further misconduct be proven against Respondents in the future.

13. This *Settlement Agreement* shall become a permanent part of the Respondents' file, which is maintained by the Board as a public document.


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14. The Respondents voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
15. The Board agrees that in return for the Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
16. The Respondents understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
17. The Respondents have had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this *Settlement Agreement*.
18. The Respondents understand that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void and Respondents' admissions herein shall be of no effect and inadmissible in any proceeding or matter. The Respondent specifically waives any claims that any disclosures made to the Board during its review of this agreement have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
19. The Respondents are not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
20. The Respondents certify that he has read this *Settlement Agreement*. The Respondents understand that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the Building Code Review Board, pursuant to RSA 155-A:11-a. Further, the Respondents fully understand the nature, qualities, and dimensions of these rights. The Respondents understand that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein.

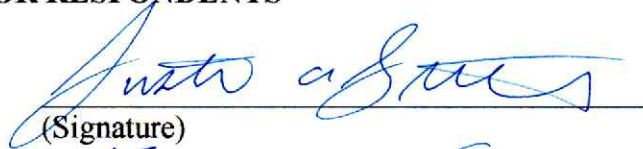

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21. This agreement shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

[signatures to follow]

FOR RESPONDENTS

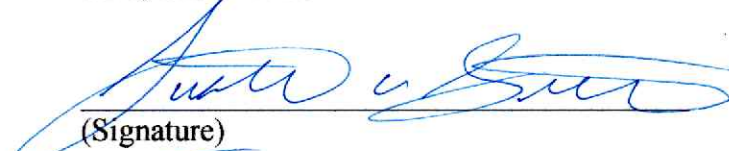
Date: 09-25-2023


(Signature)

JUSTIN A SMITH
(Print)

Authorized Representative of Spark Electrician Services
LLC, Lic. #0542C

Date: 09-25-2023


(Signature)

JUSTIN A SMITH
(Print)

Justin Smith, Lic. #13756M

FOR THE BOARD

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: _____

(Signature)
Authorized Representative of the NH
Electricians Board